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In re Application of	:
ROZENBERG, Yanina et al.	:
US Application No.: 10/049,871	: DECISION ON
PCT Application No.: PCT/US00/22619	:
Int. Filing Date: 18 August 2000	: PETITION UNDER
Priority Date: 19 August 1999	:
Attorney's File Reference: 271010-473	: 37 CFR 1.42
For: TARGETED ARTIFICIAL GENE	:
DELIVERY	:

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42 and 1.47(a)", filed 21 May 2003, which is being treated as a renewed petition under 37 CFR 1.42 requesting acceptance of the application in the name of the heirs of deceased co-inventor Viacheslav Medvedkin.

BACKGROUND

On 21 April 2003, this Office issued a decision dismissing applicants' petition under 37 CFR 1.42. The decision indicated that applicants must provide a declaration executed by the legal representative of deceased co-inventor Viacheslav Medvedkin but that if, however, no legal representative has been appointed nor was statutorily required to be appointed, application could be made by all of the heirs of Viacheslav Medvedkin. The decision also indicated that if application was to be made by all of the heirs, applicants must provide a declaration executed by all of the heirs accompanied by a statement made by either all of the heirs or the agent indicating that 1) no legal representative has been appointed nor is statutorily required to be appointed and 2) the heirs signing the declaration are indeed all of the heirs of Viacheslav Medvedkin.

On 21 April 2003, the applicants filed the present "Renewed Petition Under 37 CFR 1.42 and 1.47(a)" which is accompanied by, inter alia, a declaration and power of

attorney. The renewed petition indicates that there is no legal representative of the estate of Viacheslav Medvedkin and that none is statutorily required to be appointed. The renewed petition also states that Natalia Medvedkina and Alexander Medvedkin are all of the heirs of Viacheslav Medvedkin. The declaration lists the names of all three inventors Yanina Rozenberg, W. French Anderson, and deceased co-inventor Viacheslav Medvedkin. In addition, the declaration indicates that Natalia Fedorovna Medvedkina (Natalia Medvedkina) and Alexander Viacheslavovich Medvedkin (Alexander Medvedkin) are the heirs of Viacheslav Medvedkin. The declaration is executed by both Natalia Medvedkina and Alexander Medvedkin in their capacities as heirs of Viacheslav Medvedkin.

DISCUSSION

37 CFR 1.497(a) states in part:

When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495 . . . , he or she must file an oath or declaration that:

* * * * *

(3) Identifies each inventor and the country of citizenship of each inventor

* * * * *

Further, 37 CFR 1.497(b)(2) states:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Applicants' renewed petition filed 21 May 2003 explains that that there is no legal representative of the estate of deceased co-inventor Viacheslav Medvedkin and that none is statutorily required to be appointed and that Natalia Medvedkina and Alexander Medvedkin are all of the heirs of Viacheslav Medvedkin. However, the declaration filed 21 May 2003 includes, inter alia, the listings "Viacheslav Medvedkin, deceased, as represented by Natalia Fedorovna Medvedkina, heir" and "Viacheslav Medvedkin, deceased, as represented by Alexander Viacheslavovich Medvedkin, heir" each of which lists the same Los Angeles residence and mailing address and each of which lists Russia as the country of citizenship.

Applicants are required, in accordance with 37 CFR 1.497(a)(3), to identify the country of citizenship of deceased co-inventor Viacheslav Medvedkin. In addition, the applicants are also required, in accordance with 37 CFR 1.497(b)(2), to identify the citizenship, residence, and mailing address of both heirs/legal representatives Natalia Medvedkina and Alexander Medvedkin. However, the declaration filed 21 May 2003 is unclear on these points. Specifically, it is unclear whether deceased co-inventor Viacheslav Medvedkin has Russian citizenship, whether heirs/legal representatives Natalia Medvedkina and Alexander Medvedkin have Russian citizenship, or whether

Viacheslav Medvedkin, Natalia Medvedkina, and Alexander Medvedkin all have Russian citizenship. Similarly, the declaration does not clearly indicate the residence and mailing addresses of heirs/legal representatives Natalia Medvedkina and Alexander Medvedkin. It is unclear whether the Los Angeles residence and mailing address listed on the declaration was the residence and mailing address of deceased co-inventor Viacheslav Medvedkin, whether it is the residence and mailing address of heirs/legal representatives Natalia Medvedkina and Alexander Medvedkin, or whether it was the residence and mailing address of Viacheslav Medvedkin and is the residence and mailing address of Natalia Medvedkina, and Alexander Medvedkin. Applicants are required to provide a declaration clearly indicating the country of citizenship of deceased co-inventor Viacheslav Medvedkin and the citizenship, residence, and mailing address of both heirs/legal representatives Natalia Medvedkina and Alexander Medvedkin.


CONCLUSION

For the above reasons, applicants' request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. This time period for response may not be extended under 37 CFR 1.136(a). However, the time period for response set in the decision mailed 21 April 2003 also continues to run and extensions of time with regard to that time period for response are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled 'Renewed Petition Under 37 CFR 1.42.' No additional petition fee is required.

Applicant is advised that, as of May 1, 2003, the Office changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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